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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/705,437	11/10/2003	Ken'Ichi Imamatsu	FUJI 17.634A	4605
26304 7590 03/20/2007 KATTEN MUCHIN ROSENMAN LLP 575 MADISON AVENUE NEW YORK, NY 10022-2585			EXAMINER WOOD, WILLIAM H	
			ART UNIT	PAPER NUMBER
			2193	
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		03/20/2007	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No. 10/705,437	Applicant(s) IMAMATSU, KEN'ICHI	
	Examiner William H. Wood	Art Unit 2193	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 January 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 13, 15-19 and 22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 13, 15-19 and 22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claims 13, 15-19 and 22 are pending and have been examined.

Terminal Disclaimer

1. The terminal disclaimer filed on 04 January 2007 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of 6,687,901 has been reviewed and is accepted. The terminal disclaimer has been recorded.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S.

patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

3. Claims 13, 15-16, 18-19 and 22 are rejected under 35 U.S.C. 102(a,b,e) as being anticipated by **Hansson** (USPN 6,023,620).

Claim 13

Hansson disclosed a software device comprising:

a memory storing a control-software being downloaded by said radio terminal device (*figure 1, element 100*); and

a communication unit (*figure 1, element 120*) notifies said radio device of a number of divided blocks (*column 3, lines 5-9*) for transmitting of said stored software and transmits said divided blocks to the radio terminal device (*column 2, lines 41-56; column 3, line 1*).

Claim 15

Hansson disclosed a radio terminal comprising:

a radio communication unit communicating with a software-supply device (*figure 1*);

a memory storing a control-software presently involved in operations (*figure 1*); and

a controller inhibiting communications with said software-supply device for updating said control-software based on a power condition of said radio terminal device (*figure 1, element 140, cannot communicate when off*).

Claim 16

Hansson disclosed a radio terminal comprising:

a radio communication unit communicating with a software-supply device (*figure 1*);

a memory storing a control-software presently involved in operations (*figure 1*); and

a controller inhibiting communications with said software-supply device when said radio terminal is communicating with another device (*column 2, lines 50-51; figure 2, elements 250-320, no other communicating present*).

Claim 18

Hansson disclosed a radio terminal comprising:

a radio communication unit communicating with a software-supply device (*figure 1*);

a memory storing a control-software presently involved in operations (*figure 1*); and

a controller making a request to said software-supply device at least N times for receiving a plurality of divided control-software blocks via a radio

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communication line for updating said stored control-software (*figure 2, element 210, N=1*).

Claim 19

Hansson disclosed a radio terminal comprising:

a radio communication unit communicating with a software-supply device (*figure 1*);

a memory storing a control-software presently involved in operations (*figure 1*); and

a receiving unit receiving information from said software-supply device concerning a number of divided control-software blocks for updating said stored control-software, before starting a download of said number of divided control-software blocks (*figure 2, elements 200-240*).

Claim 22

The limitations of claim 22 correspond to the limitations of claim 13 and as such are rejected in a corresponding manner.

4. Claims 16 and 17 are rejected under 35 U.S.C. 102(e) as being anticipated by **Peng** (USPN 6,954,754).

Claim 17

Peng disclosed a radio terminal comprising:

a radio communication unit communicating with a software-supply device (*column 4, line 54 to column 5, line 13; column 5, lines 60-65*);

a memory storing a software presently involved in operations (*column 4, line 54 to column 5, line 13; column 5, lines 60-65*); and

a controller stopping a download of software from said software-supply device when the controller detects an operation for responding to an incoming call (*column 8, lines 53-65*).

Claim 16

The limitations of claim 16 correspond to the limitations of claim 17 and as such are rejected in a corresponding manner.

Response to Arguments

5. Applicant's arguments filed 04 January 2007 have been fully considered but they are not persuasive. Applicant argues **Hansson** does not disclose notification of a number of blocks, this is shown (*column 3, lines 5-9*).

Applicant argues **Hansson** does not disclose a controller operates to inhibit communication based on a power condition. It is maintained that the controller operates to inhibit or not inhibit "based" on whether the power condition of on/off, under the broadest reasonable interpretation. Claims 16

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and 17 are addressed through new rejection using **Peng**. Again under the broadest reasonable interpretation, "information ... concerning a number of ... blocks" reads upon the option to update found in **Peng**.

Correspondence Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William H. Wood whose telephone number is (571)-272-3736. The examiner can normally be reached 10:00am - 4:00pm Monday thru Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Meng-Ai An can be reached on (571)-272-3756. The fax phone numbers for the organization where this application or proceeding is assigned are (571)273-8300 for regular communications.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR systems, see <http://pair-direct.uspto.gov>. For questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)305-3900.



William H. Wood
Patent Examiner
AU 2193
March 19, 2007